A

LETTER

TO THE

RECTOR *of* Fryerning,

Upon his Refuſing to Pay his RATES to the Pariſh Aſſeſſments, *&c.*

ROMANS ii. 21. 22.

Thou which teacheſt another, teacheſt thou not thy ſelf? Thou that preacheſt a Man ſhould not ſteal, doeſt thou ſteal?

Thou that ſayeſt a Man ſhould not commit Adultery, doeſt thou commit Adultery? Thou that abhorreſt Idols, doeſt thou commit Sacrilege?

——— *Pudet hæc opprobria* Vobis
Et dici potuiſſe, & non potuiſſe refelli.

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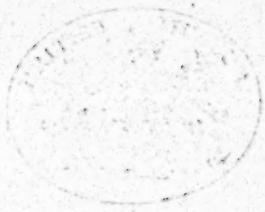

A

LETTER

TO THE

RECTOR *of* Fryerning.

SIR,

UPON good Information, confirm'd by common Report, that you not only refuſe to contribute your proportionable Share towards the parochial Taxes and Aſſeſsments with the reſt of your Fellow-Pariſhioners, but endeavour by Menaces of expenſive Law-ſuits, to deter them from inſiſting upon it, I take the Liberty, on that Occaſion, to revive our late Correſpondence, which I chuſe, for ſeveral Reaſons, to do in this publick Manner.

The Favours ſome of the Clergy have met with in the publick Courts, has been no ſmall Encouragement to a litigious Humour notoriouſly predominant in our modern Prieſthood, which has been daily increaſing among them from the time of the Reformation, and has made a Super-addition of one Vice more to thoſe of their Popiſh Predeceſſors: I wiſh they had retain'd all their Virtues.

It is now above Six Score Years, ſince it was obſerved by all the Judges of *England*, in their (*a*) Anſwer to one of the Articles exhibited to the Privy-Council by Archbiſhop *Bancroft*, (againſt the Prohibitions granted by the Courts in *Weſtminſter-Hall*, to reſtrain the Exceſſes and Encroachments of the Eccleſiaſtical Judges, and confine their Authority within lawful Bounds:) *That in ancient time ſuch as ſued for Tithes, would not ſue but for things queſtionable, and never ſought at their Pariſhioners Hands their Tithes in other kinds than anciently they had been uſed to have been paid*; *but now* (ſay the Judges) *many turbulent Miniſters do infinitely vex their Pariſhioners for ſuch kinds of Tithes as they never had, whereby* MANY PARISHES HAVE BEEN MUCH IMPOVERISHED.

(*b*) And in their Anſwer to another of thoſe Articles, they ſay as follows: That *many Miniſters have grown, of late, more troubleſome to their Pariſhioners, and there-*

(*a*) Co. 2. Inſt. 606. (*b*) ib. 610.

by

by work unto theſe [Eccleſiaſtical] *Courts more Commodity, whereas in former Ages they were well contented to accept* that which *was uſed to have been paid, and not to contend againſt any Preſcription or Compoſition; but now they grow ſo troubleſome to their Neighbours, that were it not for the Prohibition, they would ſoon overthrow all Preſcriptions and Compoſitions that are for Tithes, which doth and would breed ſuch a general Garboil among the People, as were to be pitied, and not to be permitted.*

Many Inſtances they give of ſuch litigious Proceedings of ſeveral of the turbulent Miniſters of that Time; but we who have the Misfortune to live in an Age more abounding in ſuch Examples, need not to go ſo far back to look for them. The knaviſh Prieſts of the *Romiſh* Church had various Arts of extracting Money from the richer Sort: The Jovial and Sanguine had their Ears tickled, while their Pockets were pick'd; and thoſe of a Melancholly, Saturnine Complexion, were bugbear'd out of their Money and Goods, by the Terrors of Hell and Purgatory; but theſe Frauds being worn out, the more wicked Part of the Prieſthood ſince have made uſe of Force, they have united like Banditti, and committed their Robberies upon Rich and Poor at Noon Day, under the Vizor of the Law.

Their Advantages in this way are many; they are join'd together like a *Macedonian Phalanx*; their Opponents, tho' vaſtly more nume-

numerous, are ſet upon ſingly, and are as diſunited as a Rope of Sand; the Aſſailants have much Leiſure, and more Skill and Craft, to carry on their Attacks, and (as 'tis ſaid) a joint Purſe to furniſh the Expences; the Defendants are generally poor and illiterate, and their Thoughts and Time neceſſarily employed in an honeſt way to provide for their Families; the common Prejudices in favour of a holy Profeſſion, and the Intereſt of the Church, covers their unholy Practices, and the Arts they inceſſantly employ by Friends and Meſſages, Preſents and LETTERS, to endeavour, if poſſible, to pervert even the Seat of Juſtice, being added to the reſt, have gain'd them too many Victories, every one of which gives not only Hope, but Authority, to further Succeſs; and thus fluſh'd with Conqueſt, they are neither aſham'd nor afraid, to exerciſe any Injuſtice or Oppreſſion.

I could name one of theſe Sir Reverends, an Acquaintance of yours, who has been very remarkably turbulent in this way, and infinitely vexatious to his Pariſhioners, in daily raiſing their Compoſitions for Tithes, and has often made thoſe Enhauncements, only upon ſilent Notices under Receipts given to thoſe who could neither read nor write. One you know, for whom you have a ſingular Reſpect, who forced from one of his Pariſhioners three Lambs for the Tithe of one and twenty, and from another two Pigs out of eleven. You are well acquainted with

with one who tithed the Orchard of a Pariſhioner, after he had received a full Compoſition for the Tithes of the whole Farm for the Year, and one whoſe Servant took two Ducks for the Tithe of fifteen, becauſe his Maſter had ſome Friends to dine with him. You alſo know a poor Widow left in very deſolate Circumſtances, who, not being able to pay the Sum demanded for the Tithes of her Garden, was threatned by the ſame Parſon with the Loſs of her Bed from under her, unleſs her Friends would raiſe the Sum. Can you think this was charitable, or can you, with all your Learning and Eloquence, vindicate the Honeſty of him who, by an artful, or, in plain *Engliſh*, a knaviſh Variation of Acquittances, impoſed upon an ignorant Tenant, broke through an ancient *Modus* upon the Endowment of an Alms-houſe, and committed a ſacrilegious Robbery upon God and the Poor, under the threadbare Mask of the Good of the Church? A tedious Liſt of the like oppreſſive Inſtances of the Behaviour of that Parſon and many others of his Brethren might eaſily be exhibited; but what Occaſion can there be to enlarge upon what is either ſeen or felt by every one of us poor Lay-men, and under which moſt Men are forced to groan, rather than incur the intolerable Expences to which they fear to be expoſed by their Defence againſt ſuch vile Incroachments?

From this and much more of ſeveral kinds, by long Obſervation and late Experience,

rience, I might have learned not to wonder at any thing which proceeds from a Clergyman; yet I cannot, without ſome Admiration, conſider your Behaviour on the preſent Occaſion, to avoid a reaſonable Obedience to the Laws, and a ſmall Part of that Retribution and Aſſiſtance which, by the Rules of common Juſtice, is due to your Neighbours.

I imagine from ſome of your Words, whatever I have room to think, from the Courſe of your Actions, that, like the Generality of Mankind, you would willingly ſeem at leaſt to deſerve the Character of a good Man; ſuch a Man is by your old Acquaintance, *Horace*, well deſcribed in one Line.

Qui conſulta patrum, qui leges juraq; ſervat.

He who keeps the Laws and Statutes of his Country, and does right to every Man. This laſt, Sir, is the beſt Part of the Character of an honeſt Man; ſuch a Man will always think himſelf bound to the Performance of every Act of common Juſtice, without any Compulſion of human Laws; like thoſe *Gentiles* who, not having the Law, were a Law to themſelves: How then, Sir, can you refuſe to perform ſuch a Part in the Support of the Publick, and Aſſiſtance of your Neighbours, as is required of you by the Laws of the Land, the Duty of your Office, and the Rules of common Juſtice, Reaſon and Honeſty? But if we

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are to be threatened with the expenſive Conſequences of Law-Suits, not only to force from us more than you ought to receive, but to avoid juſt Payments, what can we think, but that, whatever Precepts you recommend to us as moſt ſuitable to your own Convenience, the Men of your Stamp have made Choice of the *Scottiſh* Catechiſm, as a Rule of Practice for your ſelves, and are reſolved not to do any Right, or take any Wrong, but, by any Means, to keep what ye have, and get what ye can?

Had you any Colour of a Pretence to avoid the Payment of the parochial Aſſeſſments, it muſt be either becauſe you are over-charged, or ought not to be charged at all; as to the former of theſe, you know better than your Neighbours, tho' they know well enough, that you are not rated in Proportion to a Moiety even of the fair Profits of your Benefice; and on the other Side, you are ſo far from being exempted from the Pariſh Rates or Duties, that to none of them you are leſs obliged, and to ſome of them you are bound by much more and ſtronger Obligations than any other of your Neighbours.

If you tell us you have not been uſed to thoſe Payments, and give that as a Reaſon of your preſent Waywardneſs, that will be only one Inſtance more added to a great Number of the Incroachments and Injuſtice of the Clergy, and the Eaſineſs and Submiſſion of the People in their own Wrong; but will rather prove, that you ought to make

Reſtitution to your Pariſhioners for thoſe Debts which they have paid out of their own Pockets for you, and which ought to have been honeſtly diſcharged by you.

Theſe Aſſeſſments and Duties, which are ſo diſagreeable to your Palate, are of four Sorts; three of which, the Poor's Rate, the Conſtable's Rate, and the Rates, Duties, or Services, for repairing the Highways, are appointed and charged by and in Purſuance of ſeveral Acts of Parliament; and the fourth, which is called the Church-wardens Rate, for the Repairs of the Church and Church-yard, and other Expences relating to divine Worſhip, is an eccleſiaſtical Impoſition ſhifted from thoſe who ought to bear it, and, contrary both to Law and Reaſon, laid upon the Shoulders of the Pariſhioners.

As to the firſt of theſe, the Rates and Contributions raiſed for the Maintenance and Relief of the Poor, ſurely, Sir, it is a Shame to the Profeſſion of a Clergyman, that any Arguments ſhould be requiſite to perſuade, or Laws to compel them to the Performance of a Duty ſo much more incumbent upon them than upon the reſt of Mankind.

You know, Sir, for I am far from giving you this Trouble for your Information, or proceeding to tell you any thing in this Letter more than you already know, you *who are an Inſtructer of the Fooliſh, a Teacher of Babes, which haſt the Form of Knowledge and of the Truth in the Law*;

Rom 2. xx.

Law; I ſay, you cannot but know, that from the firſt Plantation of Chriſtianity, to go no higher, the Clergy and their Predeceſſors have been Truſtees for the Poor, what is given to the Poor being look'd upon as given or lent to the Lord; thoſe who were more peculiarly called to his Service were thought moſt proper to be truſted with the Management and Diſtribution of ſuch Money, or other Goods, as ſhould be piouſly contributed to ſacred Purpoſes. For this were Eſtates ſold, and the Price laid at the Feet of the Apoſtles; and for this were weekly Contributions brought in by other Chriſtians of Ability, out of which the Apoſtles and their next Succeſſors reſerved no more to themſelves than a bare Subſiſtence; diſpoſing of the Reſidue among their poor Chriſtian Brethren, according to their ſeveral Neceſſities.

But the Office of teaching the Doctrines of Chriſtianity, and adminiſtring ſpiritual Food, requiring more Time, as that Religion became more diffuſed, Deacons or Stewards were appointed to undertake the Truſt of receiving and diſpenſing thoſe Collections; and by the Care of theſe Officers, the Miniſters of the Church and the poorer Sort of Chriſtians were ſubſiſted together out of a common Purſe, raiſed and ſupplied by the Offerings of the Faithful.

But as theſe Treaſures increaſed, by the flowing Piety of the Lay-Chriſtians, the Luxury, Pride and Avarice of the Church-

men growing thereupon, in Proportion to the Riches intruſted in their Hands, and theſe being perverted to Uſes neither ſuitable to the Character of God's Miniſters, nor the Intent of the Donors, it was found neceſſary to appoint the ſeveral Proportions by which the Revenues and Profits intruſted to the Church were to be diſtributed; which were ordered into four Parts, whereof one was for the Uſe of the Poor, the Sick, and the Stranger; another for the Maintenance of the Biſhop; a third to be ſhared among his Clerks or Presbyters; and the other Part to be applied to the Repairs and other Expences of the Church.

This, you know, Sir, was before any Tithes were given in the Chriſtian Church, or, at leaſt, claimed under any Pretence of Law: For the Tithes, Firſt-Fruits, and Oblations, appointed by the Jewiſh Law, ceaſing, and falling to the Ground with the Jewiſh Temple, Prieſthood, Sacrifices, and Ceremonies, and no ſuch Obligation being laid upon Chriſtians, by any divine Command, or Apoſtolical Inſtitution, it was the Work of ſeveral Ages before the Chriſtian Laity could be brought to ſubmit to that unequal and unreaſonable Burthen.

By what Arts, Degrees and Opportunities, the greedy Craft of the Prieſthood at length obtain'd their Ends, and procured that Piece of Iniquity, in too great Meaſure, to be eſtabliſhed by human Laws, has been ſhew'd by the learned Father *Paul*, Dr. *Gilbert Burnet*,

net, and others, eſpecially by our Great *Selden*, and may, in a little time, be ſtill more particularly expoſed; but they being preach'd and recommended, as well as beſtowed in pure Alms, were likewiſe canonically divided, in the ſame manner as had been appointed for the other Revenues in the Hands of the Church.

But in no Part of the Tithes, or any other Revenues in the Poſſeſſion of Eccleſiaſticks, were either Biſhops, Prieſts, or other Eccleſiaſtical Perſons, thought to have any Property, or any other private Intereſt, more than a neceſſary Uſe. (*c*) The Goods of the Church were called the Goods and Patrimony of the Poor, of which the Clergy were only the Depoſitaries, and what was more than of neceſſary Uſe, was to be diſpoſed to them. And therefore ſays St. *Gregory* (*d*) *When we adminiſter to the Neceſſities of the Poor, we only render them their own, and pay a Debt of Juſtice, rather than do a Work of Mercy.* Nay, even at the full Maturity of Eccleſiaſtical Corruption, it was ſaid in the Council of *Trent*, that *the Clergy reſerving only the naked Uſe, were bound to give, or rather reſtore, all the Profits of their Churches to the Poor, who were the true Lords thereof* (obſerve, good Sir!) Furthermore, the (*e*) Parſon's Houſe was to be a common Houſe of Hoſpitality. (*f*) Non-reſidents, who did not keep Vicars, were

(*c*) Conſt. Ottoboni. 127. (*d*) Adm. Paſt. Lib. Adm. 22.
(*e*) Lynd. 132. ib. 134. (*f*) ib. 134.

obliged

obliged to leave Stewards upon their Benefices, to maintain Hoſpitality to Strangers, and give Alms to the Poor, or, on Default, the Biſhop of the Dioceſe might aſſign Part of the Profits to theſe Uſes, for Non-payment whereof the whole Profits were liable to Sequeſtration. (*g*) Beneficed Clerks were forbid to purchaſe Lay-Fees by the Profits of their ſpiritual Income, or diſpoſe of them to their Friends or Relations, becauſe they ought to be applied to the Uſe of the Poor. (*h*) If a Church was let to Farm, a fat Portion out of it was to be aſſigned to the Uſe of the Poor of the Pariſh, at the Diſcretion of the Biſhop, to be faithfully diſtributed in the Preſence of four credible Pariſhioners. (*i*) It was declared by the Statute of *Proviſors*, that Churches were founded and endowed, to inform the People of the Law of *God*, and to make Hoſpitalities, Alms, and other Works of Charity. (*k*) By other Acts of Parliament, it was provided, that in all Appropriations of Churches, the Dioceſan ſhould appoint, according to the Value of ſuch Churches, a convenient Sum of Money out of the Profits, to be yearly diſtributed to the Poor, (*l*) and a ſecular Perſon was to be ordained Vicar perpetual in every appropriate Church convenably endowed to keep good Hoſpitality.

Much more of this kind might be produced, but by this, Sir, it is more than ſuffici-

(*g*) ib. 165. (*h*) Pinguis Portio. 153, (*i*) 25. E. 3. St. 6.
(*k*) 15. Ri. 2. C. 6. (*l*) 4. H. 4. C. 12.

ently

ently apparent, that, from the firſt Eſtabliſhment of the Chriſtian Religion, all the Offerings, Eſtates, and afterwards the Tithes beſtowed upon the Church, were to promote Alms and Hoſpitality; that is, Relief and Entertainment to the Poor, the Stranger, the Widow and the Fatherleſs, the Aged and the Helpleſs. You ſee not only the Opinions of ſingle Doctors and Eccleſiaſtical Councils, but the Senſe of *Engliſh* Parliaments on this Subject; and thus, out of the Profits of the parochial Churches and religious Houſes, were the Poor of this Kingdom maintained till the Time of the Reformation, without any other Burthen upon the laborious Husbandman; and for this Cauſe was Marriage, before that Time, forbidden to the Clergy, that they ſhould not be drawn, by the Cares of the World, to neglect the Duties of their Calling, or tempted to miſapply the Portion and Patrimony of the Poor to the private Subſiſtence of their Families.

At the Time of the Reformation, when the new *Sumpſimus* ſtripp'd the old *Mumpſimus* naked to the Skin, the rich Abbots and Priors were ſent empty away, but no Care was taken to fill the Hungry with good things; the Revenues of the Monaſteries were ſquandered upon Courtiers and Favourites, without any Regard to the Uſes for which they were piouſly intended; and altho' the Tithes and other Profits of the unappropriated Churches were untouched,

and

and the Poſſeſſors of them remained under their former Obligations, yet, moſt of thoſe Incumbents embaraſſing themſelves with Wives and Families, and following their own Inclinations, and the Examples of the temporal Grantees, all the Charities of our good Anceſtors preceding that Time fell to the Ground at once.

The Cries and Deſperation of the Poor increaſing with their Neceſſities, various Methods were taken to relieve the Wants of the more modeſt, and to repreſs the Outrages of the more bold and intemperate. Towards the former King *Edward* VI. led a glorious Example; the Charters granted to Corporations by ſeveral preceding Kings had been under Reſervations of large Fee-Farm Rents, from forty or fifty to two hundred Pounds yearly, and upwards; of all which he remitted the Payment, during three Years, to be apply'd to the uſe of the Poor; an Act of ſo much Piety as might, by the divine Mercy, have attoned for the Sacrilege, Rapines, and Cruelties of his Father. Liberty was afterwards given (contrary to the Statute of *Mortmain*) to build and endow Hoſpitals; Charity was recommended in Sermons, and Boxes were put up in Churches, to receive the Alms of the well-diſpoſed. And for the repreſſing and puniſhing diſorderly and vagrant Perſons, puſh'd on by Exceſs of Hunger and Deſpair, never were ſo many, and ſo ſevere Laws enacted, as the Exigence of thoſe times required.

All

All this while, notwithſtanding the publick Cries, and the Calls of Duty, the Charity of the Clergy ſeems to have wanted more waking; for in the Royal Injunctions to them, in the Year 1547, by K. *Edw.* VI. and repeated in the firſt Year of Queen *Eliz. Ann. Dom.* 1559, it was complained, that *altho' the Goods of the* Church *were called* The Goods *of the* Poor, *yet nothing leſs was at that time ſeen, than that the Poor were ſuſtained with the ſame. Therefore, all Parſons, Vicars,* &c. *which might diſpend yearly twenty* Pounds, *or above, were injoyned to diſtribute thereafter among the poor Pariſhioners or other Inhabitants, in the Preſence of the Churchwardens, or ſome other honeſt Men of the Pariſh, the fortieth Part of the Revenue of their Benefices, leſt they might be worthily taxed of Ingratitude, which, reſerving ſo many Parts to themſelves, could not vouchſafe the fortieth Portion thereof among the Poor of that Pariſh which was ſo fruitful and profitable to them.*

Theſe Injunctions were, without queſtion, drawn up by the Biſhops, who ſeem to have had a tender Conſideration or Fellow-feeling of the Expences the married Clergy had run themſelves into; and therefore this was all that was required from the ſmaller Benefices, which was but the tenth Part of what was due to the Poor, by Conſcience as wel as Canon Law and the Tenure of their Benefices; and this ſmall Pittance was put upon the Foot of Ingratitude to their

Pariſhes which were ſo fruitful and profitable to them.

But where the Benefice or ſpiritual Income amounted to 100 *l.* yearly, the Incumbent was injoined (for the Advancement of Learning) to *give compleat* Exhibition to a Scholar; and for every 100 *l.* more, the like Exhibitions to ſo many more Scholars in one of the Univerſities, or ſome Grammar School.

How far the Clergy of that Age thought fit to obey theſe eaſy Injunctions, or to regard the Cenſure of Ingratitude to their Pariſhes, I know not; but it was above forty Years after the laſt of them before any Tax was ventured to be laid upon the Pariſhioners for the Maintenance of the Poor.

Such a Burthen, in the Infancy of the Reformation, when it was freſh in every Man's Memory, by what Means the Poor had been maintained, and how that Maintenance had been miſuſed, might have occaſioned a more dangerous Oppoſition to that great Turn than all it otherwiſe met with; but when that Generation of Men were worn out, and ſome Care and Proviſion was abſolutely neceſſary, to make the Hands of thoſe who were able to work uſeful to the Publick, and to relieve the Neceſſities of the Aged and Impotent, an Act of Parliament was made, in the 43d Year of Queen *Eliz.* whereby a new Office was erected, by the Name of Overſeers of the Poor, *who were to be appointed in every Pariſh, and they, with the Churchwardens, were to take Order,*

Order, from time to time, to ſet to work the Children of poor Parents not able to maintain them, and all ſuch Perſons as had no Trade or Maintenance. And alſo to raiſe Weekly, or otherwiſe, by Taxation of every Inhabitant, Parſon, Vicar, *and other, and of every Occupier of Lands, Houſes, Tithes, impropriate Propriations of Tithes, Coal Mines, or ſaleable Underwoods, in the ſaid Pariſh, in ſuch competent Sum and Sums of Money as they ſhould think fit, a convenient Stock of Flax, Hemp, and other Ware to ſet the Poor on Work, and alſo towards the neceſſary Relief of the old and impotent Poor, and putting out poor Children Apprentices, to be gathered according to the Ability of the Pariſh.*

This Law, to make it go down the more eaſily, was at firſt made but for a ſhort Continuance, only till the End of the next Seſſion of Parliament, but, with ſome Alterations, by ſeveral Acts of Parliament, has ſince, like ſeveral other Taxes, been made perpetual; whereby Parſons and Vicars, inſtead of a fourth Part of their Profits, which, by the Condition of their Tenure, they were, and in Conſcience ſtill are obliged to apply to that Uſe, are charged with no more than an equal Proportion with other Inhabitants, and Land-holders, in the Pariſh, who are hereby loaded over again with the Maintenance of their poor Neighbours, for which they paid their Tithes before.

Could it ever enter into the moſt teeming, or moſt ſuſpicious Imagination, that any of thoſe who, with their Families and Servants, and ſeveral of them, very luxuriouſly devour the Bread which was piouſly and charitably offered to *God*, to feed the Mouths of his poor Creatures, ſhould endeavour meanly to ſhuffle and evade the Payment of this ſmall Compoſition? that thoſe who ought to be ſhining Lights and leading Examples, to encourage their Neighbours to bear with Cheerfulneſs their Shares of this new Burthen, which the Laws have laid on them and their Poſterity, in Eaſe of the Clergy, ſhould, on the contrary, reſtively ſtruggle to ſlip the Collar, and leave the whole Load both of Poor and Parſon upon the Necks of their Pariſhioners? Do not you, and ſuch of your Brethren as act in this manner, prove your ſelves true Succeſſors of thoſe who *bound heavy Burthens, and grievous to be borne, and laid them on Mens Shoulders, but they them ſelves would not touch them with one of their Fingers.*

I leave this, Sir, to the Conſideration of your retired Hours, and proceed to conſider the other parochial Aſſeſſments; the next of which ſhall be that for Reimburſement of Conſtables or Headboroughs, for Money quarterly paid by Order of the Juſtices of the Peace, by Virtue of the laſt mentioned Statute and ſeveral others, to be applied to the Relief of Priſons and Hoſpitals, maimed Soldiers and travelling Poor, and

to

to the Repair of Bridges and other publick Services of the County, under the Care and Direction of the Juſtices, and for Hue and Cries and vagrant Poor, *&c.* and this I place between the Poor's Rate and the Rates and Services appointed by other Acts of Parliament for mending and repairing the Highways (for the Benefit of Commerce and Communication, and the Eaſe and Safety of Travellers) becauſe it partakes of the Nature of both. And all theſe Taxes and Aſſeſſments are to be charged according to the Directions of the Act of the 43d of Queen *Eliz.* lately mentioned. So that if *Parſons* and *Vicars* are ſubject to the Rates for the Poor, they are equally liable to all theſe. As to thoſe Parts of the Conſtable's Rate which are aſſeſſed for the Relief of Priſoners, Travellers, or other indigent Strangers, they come properly under the Title of Charity and Hoſpitality; ſo that I think I have no preſent Occaſion to trouble you with more Words on that Subject: But perhaps the Contributions of the holy Fraternity to the Repairs of Bridges and Highways may deſerve ſome further Diſcourſe, to ſet it in a true Light, and to ſhew that none of theſe Acts of Parliament have laid any new Burthen upon the Clergy.

Many Clouds have formerly been raiſed, and much Thunder too, about the Privileges and Immunities of holy Church, but what they were no one could ever certainly define. The Clergy thought they never had enough either

either of Privilege or Power; the Laity often found they had too much. If you and your Brethren, or the Biſhops of any Age, may or might have been Judges, they would probably be extended wider than the Bull's Hide was by Queen *Dido*; but if they are to be confined within the Bounds of Prudence and good Policy, they may be covered by a Man's Hand.

(*m*) My Lord *Coke* ſays, if he were to ſet them all down, they would take up a whole Volume; but what he has mentioned may be contained in a Nut-ſhell; yet he wiſely and truly obſerves, that by extending their Liberties beyond their true Bounds, they loſt ſome of thoſe which they had.

But whatever theſe Immunities and Privileges have at any time been, they were only Emanations from the Piety or Weakneſs of the Throne, flowing from the Grants of Princes, or drawn by the Uſurpations of the Church. That Perſons ſet apart to an holy Function, ought not to be employed in any temporal Office, or to ſerve in the Wars, every one will allow, for no Man can ſerve two Maſters; yet we ſee many of them ready enough to do that, and forward to undertake any Employment of Profit, or what they think Honour, as many of our Hiſtorians and the Benches of our Seſſions of the Peace can teſtify. My Lord *Coke* alſo ſays, that their Eccleſiaſtical Goods were free from Tolls, Cuſtoms, Pontage,

(*m*) 2 Inſt. 3.

Pavage,

Pavage, and the like; all which muſt have been by Grants from the Crown, and might be more aptly pleaded at the Turnpikes ſet up by Authority of Parliament than in the Caſe before us. But before any of our Acts of Parliament the Revenues of the Church were, by the Laws of *Juſtinian*, and afterwards by the *Capitulars* of *Charles* the Great, ſubject to the Repairs of Bridges and Highways. So likewiſe under the *Saxon* Government, as favourable as the Chriſtian Kings of that Race were to the Church and Church-men, yet their Lands were liable to the *trinoda neceſſitas*, or threefold Neceſſity of the State, which was for the fortifying of Caſtles, building and repairing of Bridges, and Aid on the military Expeditions.

And altho' ſome of thoſe Princes, in their Charters, granted away to the lubberly Monks and other lazy Church-men, together with large Tracts of Land, ſeveral of the moſt choice Prerogatives and Flowers of the Crown, yet theſe Services were thought of ſo great Concern to the publick Welfare, that they were generally excepted, as may be inſtanced in the (*n*) Charters to the Church of *Canterbury*, the Monks of *Wincheſter*, and others, in ſome of which it is ſaid, they never could be releaſed; but if that has ever been done to particular Churches or Monaſteries, it is thereby ſuffici-

(*n*) Spelm. Councils 1. 231. 256. 443. 556. & alibi.

ently

ently implied, that they were legally chargable, otherwiſe thoſe Grants of Releaſe or Exemption had not only been unneceſſary, but the Church-menwere too jealous of their Privileges, to have been obliged in that manner, for what they thought to be their own Right.

I believe this was never diſputed in former Ages; the Repairs of Bridges and Highways are, without any Scruple, mentioned by (o) *Lindwood* among the *Onera Eccleſiaſtica*, or Charges upon the Church. Of late Years indeed ſome of our turbulent, contentious Miniſters, not regarding how worthily they might be taxed with Ingratitude, have litigated the Payment of theſe and other parochial Duties againſt their Pariſhes, which had been fruitful and profitable to them, but did not meet with much Encouragement from the Judges of thoſe Times.

The Opinion of Twelve learned Judges, *who ſpeak as having Authority, and not as the Scribes*, muſt be of much greater Weight than all I have ſaid, or than I, or any other ſingle Perſon, of much greater Abilities, can offer; and therefore I ſhall cite an adjudged Caſe on the preſent Queſtion, which I ſhall do without any Expectation of Fee or Reward, or ſo much as empty Thanks, altho' it proceeds from a ſincere Deſire, attended with ſome Hopes, that it may prevent you and ſome of your Brethren from

(o) Lind. 66.

running

running your ſelves and Neighbours into fruitleſs Expences.

(p) In the time of King *Charles* II. one Dr. *Webb*, who, it ſeems kept a Coach and Horſes (and very probably a Tithing-Cart alſo) brought an Action of Treſpaſs againſt *Batcheler*, a Conſtable, and others, for taking two Cows, or Horſes (for in this the Reporters differ) they juſtified under the Surveyors of the High-ways for ſeveral Defaults of Team, according to the Statute of 2 & 3 of *Philip* and *Mary*; the Jury found by ſpecial Verdict, that the Plaintiff was in Holy Orders, and that the Defendants diſtrain'd without Notice of their Warrant, or his Defaults, according to the Act of 22 *Cha.* II. *cap.* 12. That Warning was given to the Pariſhioners of the Pariſh where the Plaintiff was Parſon, to ſend in their Carts, and the Plaintiff omitting to do it, a Juſtice of Peace made a Warrant for a Diſtreſs. Upon this ſpecial Verdict, the Cauſe was brought before all the Judges in *Trinity* Term, 27 *Cha.* II. The Points ariſing from the Irregularity of the Diſtreſs, may be ſeen in the Reports, but not being to the Purpoſe in Hand, I ſhall omit them, and proceed to the Merits of the Cauſe.

It was alledged for the Plaintiff, that Clergymen were not obliged by thoſe Acts; that Eccleſiaſtical Perſons always had Immunities from ſuch Charges as Pontage, Murage, Toll, *&c.* (which, by the way, were

(p) 3d Keble. 476. 507. 1ſt Ventris 273.

very different from the Matter in Queſtion) that Clergymen were not within the general Words of the Statutes, or comprehended in the Word Pariſhioners, and that keeping Coach-horſes was not keeping a Team.

For the Defendants it was argued, that the Parſon was not exempt in this Caſe, any more than in Dr. *Raleigh*'s Caſe 1652, for Watch and Ward. The Court was of Opinion, that the Clergy are liable to all publick Charges impoſed by Act of Parliament, and Judge *Hale* ſaid it had been ſo reſolved, upon Debate before all the Judges. And by *Hyde* Chief Juſtice, in his Reports *Paſchæ 5to Car.* I. that there is no Difference between Clergy and Laity in Aſſeſs for Poor, or for maimed Soldiers, or Bridge-money, being for Conſtables Rates, and the like, it was ſo reſolved by all the Judges then, and agreed by all the Judges now. And it ſeems the Parſon of *Buſhan* had been convicted about Forty Years before, upon the ſame Statute of *Philip* and *Mary*, for not ſending in his Cart, and ſo the Court conceived here.

The Diſtreſs alſo appeared to be well taken, and ſo the Parſon, for this once, was obliged to ſubmit to Reaſon.

And thus, Sir, you ſee the Obligations upon you to the Payment and Performance of theſe Rates and Duties, confirmed over and over by the unanimous Opinion of all the Judges of *England*; after which I hope, that when Self-Intereſt ſeems to turn againſt you,

you, Obſtinacy, mere Avarice, or the imaginary Liberties of *Holy Church*, will not be able to furniſh you with any ſophiſticated Reaſons to continue in a Refuſal, not more reputable, than likely to be profitable, either to your ſelf or the Church, and very far from being either juſt or grateful to the Pariſhioners.

Your late Brother in the Lord, Dr. *Wood*, ſeems to have been fully convinced in theſe Points. He owns, that (*q*) *Tithes are at this Day chargeable with all Payments impoſed by Act of Parliament, if they are not excepted; they are ſubject by Statutes to contribute to the Poor, maimed Soldiers,* King's-Bench *and* Marſhalſea *Priſons, Militia, High-ways and Bridges, Watch and Ward, Conſtables Rates, Robberies committed in the Hundred, and are liable to be tax'd by Commiſſioners of Sewers,* &c. and *with him entirely agrees* (*r*) *Dr.* Watſon.

One might be tempted to hope, that this open Confeſſion of theſe learned Brethren would move you to Repentance and Reſtitution; but if you will neither liſten to them, nor the Judges, nor to *Moſes and the Prophets*, it is to be fear'd, that if one was even to riſe from the Dead, he would be hardly able to work ſuch a Miracle.

But there is another Rate ſtill to be ſpoken to, which is for Reimburſement of the Churchwardens for Money laid out for Repairs of the Church and Church-yard, fur-

(*q*) Wood's Inſt. 176. (*r*) Compl. Incumb. 413.

niſhing Bell-ropes and other things for the Service of the Church. The other Aſſeſſments and Duties are laid upon us by Law, this impoſed contrary both to Law and Reaſon, under the ſole Pretext of Cuſtom, encouraged and continued upon us by the Power and Management of the Biſhops and their Courts.

As in the Poor's Rate I endeavoured to go to the Bottom of the Sore, ſo I think it will be proper to open this in the ſame Manner, the Hoard of Corruption being no leſs turgid in this than the other; and if there was little Soundneſs of Eccleſiaſtical Charity to be ſeen there, as little of their Honeſty will be found here.

You know, Sir, that for ſome Ages after the ſecond Plantation of Chriſtianity in this Nation by *Auſtin* the Monk and his Aſſociates, there were no Churches erected but in the chief Cities, where the Biſhops fix'd their Sees or Seats, and there they reſided with their Clerks or Presbyters, who from thence travelled into the adjacent Countries, to perform their ſpiritual Functions, to inſtruct the People, and pick up their Contributions and Oblations.

The Biſhoprick was then one large Pariſh, but the Harveſt being great, and the Labourers few, and the Fatigue exceſſive, either for the Clergy to travel ſo often as was requiſite over their extenſive Diſtricts, or for the Inhabitants of the Country to repair to the Mother Churches, ſeveral Barons

rons and Gentlemen built Churches on their own Eſtates, for the Eaſe and Convenience of themſelves, their Families, Servants and Tenants.

It was but reaſonable, that on every ſuch new erected Church, a competent Proviſion ſhould be made, for the Maintenance and Reſidence of a qualified Perſon, and it was not unreaſonable, that ſuch Perſon ſhould be approved by the Biſhop before his Inveſtiture, the Biſhop eſpecially, in that dark Midnight of Learning, which then veil'd the whole Nation, being the beſt Judge, as well of his Life and Manners, as of his Learning and Orthodoxy.

A Manſe, or Dwelling-houſe, was generally erected for the Reception of the Incumbent, and a Portion of Land or Glebe towards his Subſiſtence; and where that was not ſufficient (the Payment, or Offering of Tithes being then a growing Faſhion, and affording a new Supply to thoſe new Erections) either a Stipend, or Part of the Tithes of the Pariſh, a third or fourth, or ſometimes a Moiety of them was aſſigned as an Endowment on the Church.

This was at the Diſcretion of the Founder, who ſometimes retained the Tithes of what Part he pleaſed, to reimburſe the Expences of his new Buildings, ſometimes Part of the Tithes, or Payments in lieu of, or in the Name of Tithes, were given in various Kinds and Modes, to religious Houſes, and ſometimes the whole Tithes together, with the

the Church it ſelf, were ſo given away, of which Grants and Appropriations many Precedents of various kinds are ſtill extant; and hence aroſe the Variety of Modes, or kinds of Tithing, and ſeveral Lands not being charged with Tithes by the Proprietors, afterwards juſtly claim'd a Benefit of Exemption.

Upon every Vacancy after a Church had been conſecrated and dedicated by the Biſhop, the Patron or Founder had the ſole Power of inveſting or inducting a Prieſt Epiſcopally ordain'd, and giving him Seiſin of the Church and its Endowment; for who elſe could have any juſt Right to diſpoſe, or give Poſſeſſion of any Part of his Eſtate? But, by Degrees, the Biſhops encroached upon that natural Right, till they left him only a Power to preſent a Perſon to the Dioceſan, to be inſtituted and inducted by him who had no Eſtate in the Church, and could have no Right to give that Seiſin, unleſs it had been under the Grant or Authority of the Proprietor. In like manner, the Founder or Owner of the Church was in time deprived of the Tithes, or ſuch Part as he had retained, tho' the Monks and Fryers had Intereſt enough to maintain the Poſſeſſion of ſuch as had been given to them; for it was the common Maxim among the Eccleſiaſticks of all Sorts, that *it was no matter who had the Tithes, if they could be got from the Layman.*

The Founders and Patrons of Churches having afterwards nothing left but a bare Power

Power of preſenting upon a Vacancy, with the Advowſon or empty Office of *Advocates* or *Sollicitors* to defend the Rights of their Churches, or warrant the Titles of their own Eſtates to the Poſſeſſors, had little Reaſon to be at any further Expences in repairing or beautifying the Churches, or furniſhing any Neceſſaries therein.

Where the Tithes were annexed to the Churches, the Biſhop had a canonical Right to his fourth Part, which by Degrees was remitted, in Conſideration that the Incumbent ſhould apply it to the Repairs of the Church and Parſonage-houſe; and the Parſons being thus well provided out of the Reſidue, they releaſed their Claim to any Share out of the Epiſcopal Revenues, and thus they were both ſatisfied.

In ſuch Benefices as were by Grants or Charters of the Owners appropriated to religious Houſes, Colleges, Deans and Chapters, or other Eccleſiaſtical Bodies, the Appropriators repair'd the Churches, and maintain'd the Poor, or allow'd Conſideration to their Vicars, to undertake ſome Part of thoſe Expences; but where the Parſons had the whole Tithe and Profit of the Benefices, the Proviſion for the Poor, and the Repairs and other Expences incident to the ſacred Buildings, did, of common Right lye upon him to diſcharge (the thing it ſelf paſſing with the Burthen, the Burthen naturally in all Caſes attending the Profit, and thoſe who reap'd the Benefit being by all the No-

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tions of Law and Reaſon, obliged to bear the Expences incident to it.)

On the other Hand, the Inhabitants and Tenants on the Lands within the new Pariſhes were, by the Conceſſions of their Lords, ſubjected to a new and heavy Yoke of Tithes, of which, as one Part was canonically appointed for the Uſe of the Poor, ſo another Part was by the ſame Authority, agreeably to common Right and Reaſon, to be applied to the Repairs and Expences of the Church, yet in thoſe dark Ages, ſo ſtupid was the Ignorance and Submiſſion of the People, and ſo vile was the Craft and Injuſtice of the Clergy, that they ſoon contrived to throw that additional Weight on the overloaded Shoulders of the Pariſhioners, who were thereby conſcionably obliged to pay twice over for the ſame things, firſt in their Tithes, and afterwards by additional Contributions.

It is wonderful to think how the Prieſts, even in thoſe Times of Ignorance, were able ſo far to deceive and impoſe upon the People; but when they had made the poor Wretches believe, that they kept the Keys of *Heaven, Hell and Purgatory*, what could they not do afterwards? The Wonder now lies, that when Mankind ſees thro' their old Frauds and Pretences, and cannot blindly believe that their Salvation depends on any but God alone, that they ſhould ſtill patiently ſubmit to thoſe old unjuſt Encroachments and Burthens.

Cicero

Cicero wonder'd how one Diviner of his Time could meet another, without laughing. We know well enough how ſome of our Divines laugh at us in their Clubs and Meetings, and not without Reaſon.

But thus it was, and thus it is, this Piece of Sacerdotal Iniquity being palmed upon the World, not only againſt Right and Reaſon, but againſt their own Canon Law, when it had tamely paſs'd thro' a Courſe of Forty Years, a Title of Cuſtom was then ſet up to ſupport it, and under that Pretence it is ſtill ſupported, tho' it can lay no Claim to any Part of the legal Notion of Cuſtom.

Cuſtom ought to be immemorial, that is, where no Law, Record or Evidence can be produced to the contrary; whereas my Lord (*s*) *Coke* owns this to be contrary to Canon Law. (*t*) It is alſo contrary to an old Provincial Conſtitution of the *Oxford* Council under *Edmund* Archbiſhop of *Canterbury*, *Anno* 1236, whereby if the Rector of a Church died, leaving his Church without Veſtments or Books, or the Buildings ruinous, thoſe Decays were to be repair'd and ſupplied out of his Eccleſiaſtical Goods, and ſuch Vicars as under a moderate Penſion enjoy'd the Profits of the Benefices, were ſubject to the like Deductions out of their Eſtates; for as they were bound to the Premiſſes, they were look'd upon as juſt Debts.

(*s*) 2 Inſt. 653. (*t*) Lind. 250. ib. 255.

I believe indeed this is the laſt of this kind in *England* which charges theſe Repairs upon the Parſon, whereby it appears how ſuddenly this Inundation of Eccleſiaſtical Injuſtice overwhelmed the whole Nation; for this was but very few Years after the Payment of Tithes to the Pariſh Churches for thoſe Purpoſes came into any thing like a general Uſage; (*u*) yet afterwards ſuch Religious as had Lands in any Pariſh, or even the Biſhop in the like Caſe, were canonically ſubject to Contributions, for the Repairs of the Church, with the reſt of the Pariſhioners. If ſo, why not the Parſon? Were not the others entitled as well as he to ſpiritual Immunities? But it appears by ſeveral Conventions and Compoſitions between Appropriators and their Vicars, that the Vicars, for Conſiderations allow'd them, were to diſcharge ſeveral Incidents, ſometimes *omnia Onera Epiſcopalia*, which was not the Expences only of the Epiſcopal Viſitation, but the Repairs and other Expences of the Church, which were to be diſcharged out of the Biſhop's fourth Part of the Profits of the Benefice. Some of thoſe Vicars were to find Bread and Lights, Waſhing Veſtments, Ropes for the Bells, Repairs of Books and Ornaments, and ſeveral other things, which are now brought into the Churchwarden's Rate, and the Pariſhioners forced to pay them, or ſtand the Laſh of the Biſhop's Courts.

(*u*) v. Newcourt, 2. 28. 49. 54. 64. 104. 141. 144. 178. 311. 484.

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As this pretended Cuſtom is not immemorial, ſo neither is it reaſonable. I am confident, that Self-Intereſt (call it Zeal for the Church, or what you pleaſe) cannot ſo far have miſled your good Underſtanding, as to make you ſeriouſly believe that to be an equal Partition, where one Man has all the Profit, and another all the Burthen and Expence. Let us ſtep a little out of the Way of Mother Church, and ſuppoſe this a private Queſtion between you and me: You call the Church and Church-yard your Freehold, and they are become ſo, in the Eyes of the Law, ſince the Patrons were outed by the Craft and Power of the Clergy; the Parſon's Induction is Livery and Seiſin, and when he dies, the Eſtate and Profits are in Abeyance or Expectance, and lie dormant and ſtill in the Lap of the Law, till the Induction of his Succeſſor, the Patron's Eſtate in that Interval being quite excluded. Now turn the Tables, and ſuppoſe I ſhould deſire you to repair my Freehold, would you not think me a Fool? And if I ſhould endeavour, by Fraud or Force, to draw you into ſuch a Bargain, would you not think me a Knave? The Anſwer needs not much Conſideration: This Cuſtom then is void in its ſelf, as being contrary to Law, Fact and Reaſon. I am ſure, that in any civil Caſe no ſuch Cuſtom would be ſupported.

(x) It is candidly owned, both by *John de Attona* and *Lindwood*, that, by *Common*

(x) Conſt. Ottob 113. Lind. 53. 66. 250. 253.

Right, the Churches ought to be wholly repaired by the Parſon, or thoſe who have the fourth Part, which ought to be applied to that Uſe; but that, by Cuſtom, he is bound only to the Repairs of the Chancel, and the Church is repaired by the Pariſhioners, and this they call a laudable Cuſtom. 'Tis as little as ye can do to give the Gooſe a good Word, when ye fatten upon the Fleſh, and lie ſoft and eaſy upon the Feathers. But of all the Geeſe in the World, none were ſilly enough to be ſo far impoſed upon, excepting only the *Engliſh*; whether through a greater Share of Stupidity in the People, or more abundant Knavery in the Clergy, let others decide; but in all other Nations, the Churches are repaired by a Fund appropriated to that Purpoſes, out of the Eccleſiaſtical Revenues, or by the Pariſh Prieſts; nor is the Aſſiſtance of the Pariſhioners ever called for, except where the others prove inſufficient.

And thus far *Lindwood* allows, that the Decays of thoſe Parts of the Church which belong to the Pariſhioners (by this unreaſonable Cuſtom) do not ſo belong to them, but the Parſon or Curate is bound to contribute to the Repairs of thoſe Decays: This is all, Sir, which is demanded on the Rates, and this you modeſtly refuſe.

It cannot but be now obſerved, how early the Laity was cheated by the *Romiſh* Clergy out of one fourth Part of their Tithes, which ought to have been applied

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to the Repairs and other Services of the Church; and that the Prieſts of the Reformation have not only continued that Fraud, but deprived them of another fourth Part of the Tithes, which was given for the Uſe of the Poor. I wiſh, therefore, that you, or any of your Brethren, who are very ready to throw the Sin of Sacrilege in the Teeth of your Neighbours, would tell me, or the World, how ye can clear your ſelves of a high Degree of that Sin, in miſapplying and perverting to your own Uſes thoſe Portions of what was dedicated to *God*, to be applied to the Support of his Houſe, and the Relief of the Poor. It may deſerve a ſerious Conſideration; but if your Conſciences are grown callous and inſenſible, I am apt to think, that, in Strictneſs of Law, theſe Miſapplications might be ſubjected to the Inquiries of a Commiſſion of charitable Uſes.

I cannot diſmiſs this Subject without ſome Notice of the Ingenuity of (*y*) Dr. *Wood*; he ſays, that Churchwardens MUST keep the Body of the Church in Repair, and the Seats belonging to it, and alſo repair the Mounds of the Church-yard; for (ſays he) of *Common Right*, this ought to be done at the Charge of the Pariſhioners, becauſe they have the Benefit of worſhiping *God* in the Church, and burying the Dead in the Church-yard.

How little Credit is to be given to a Prieſt in his own Cauſe! every thing is diſ-

(*y*) Wood's Inſt. 89.

colour'd,

colour'd, where the leaſt Drop of his Intereſt falls; he could not be ignorant this was not only contrary to common Right, but to the Canon Laws, which are certainly binding upon the Clergy, being their own Acts; he knew his Reaſons to be falſe and ſophiſtical; he knew that the Soil of the Church and Churchyard was given, and the Church built and endow'd, that the Pariſhioners might have the Benefit of worſhipping God in the Church, and burying the Dead in the Church-yard; and that the Parſon has no Eſtate in them, but under thoſe Truſts, nor any other Title to the Tithes and Offerings of his Pariſhioners: How then can any of them have ſo little Modeſty as to aſſign ſuch Reaſons for ſhifting off their own Duty, and doubling the Load on the Necks of their Neighbours; or ſo little Honeſty as to deſire to be paid over and over for the ſame thing.

But before I proceed further, give me Leave, good Sir, to explain my Notion of common Right.

It is, as I take it, the Cement of Society, and the Baſis of all human Laws; even the Second Table of the Decalogue is erected upon that Foundation. It is dictated by a Law printed in every Mind capable of the Impreſſions of Reaſon, conſiſting of ſuch fundamental univerſal Principles of natural Juſtice and Equity, as are allow'd by all Mankind. It is the ſame in all Times and Places, and may be abridg'd into that general Rule which I have often recommend-

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ed to you, *Do as you would be done by.* Every Man's Conſcience is Judge of it, and no one can miſtake it whoſe Reaſon is not blinded and miſled by inordinate Paſſions and Deſires, or by Enthuſiaſm and religious Frenzy.

It carries with it its own Evidence and Authority, and wants no other to ſupport it in any Court of Judicature; for where any Doubt begins, there ends the Notion of common Right, and where any Judgment is given contrary to it, every ſuch Judgment is an Act of natural Injuſtice.

It is by ſome of our *Engliſh* Writers confounded and made ſynonymous with common Law; but that and all other human Laws differ from it, as the Effect from the Cauſe, or the Superſtructure from the Foundation. The municipal Laws of all Nations are compoſed to enforce by Penalties, and to branch out and extend the Law of common Right to particular Caſes, by further Rules, Maxims and Inſtitutions adapted to the ſeveral Tempers and Cuſtoms of People, and Forms of Government; but theſe Additions cannot be called common Right, tho' they are built upon it.

That which with us is called common Law, is a Syſtem of unwritten Cuſtoms ſuitable to the Maxims of common Right, which Cuſtoms have been immemorially obſerved by the Nation in general; but the Rules thereof are only to be found in the Opinions and Deciſions of our ſucceſſive Judges

Judges from Age to Age, which are far from being conſentaneous or uniform.

Is it not Pity, Sir, that Words of good Import ſhould be vilified to ill Uſes; but Words being unable to defend themſelves, are often forced to own what they never meant. Theſe poor Words [*common Right*] have been ſo much abuſed in Matters of Tithe and other Eccleſiaſtical Caſes, that they have not only loſt their own, but all other Meaning, and are reduced to mere Cant; when your Brethren want Law or Reaſon to juſtify their Pretentions, they uſe theſe Words like a Charm; whereas, by any juſt Notion of common Right abſtractedly conſider'd, they have no more Pretence to any Tithe whatſoever, than a Beggar has to a Halfpenny out of a Man's Pocket; for, by common Right, no Man can be entitled to any Share in the Profit of another Man's Labour, or Property, but by his Conſent; nor is any Payment of Tithes enforced by our *Engliſh* Laws, beyond the particular Cuſtoms of Pariſhes and Places, excepting in the Caſe of barren Lands, after the Expiration of ſeven Years, from the Time of Improvement.

But under the Title of common Right to put upon us common Wrong, is, ſurely, Sir, too great an Impoſition upon common Senſe, and a Maſterpiece of ſpiritual Aſſurance; and ſo I leave it, but ſhall not part from Dr. *Wood*, without giving another Specimen or two of his Prieſtly Sincerity.

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He ſays (z) that, by Statute 13 and 14 *Charles* II. Conſtables, Headboroughs, *&c.* out of Purſe, may, with the Inhabitants, tax all chargeable by 43 *Eliz.* as every Occupier of Lands, Tithe, Wood, *&c.* without any Mention of what Tithes, or ſo much as the Word *Inhabitants*, for fear of bringing in the Parſon or Vicar; but upon the Rates for the Poor, reciting part of the ſame Statute of (*a*) Q. *Eliz.* he is pleaſed to tax thoſe Rates upon *every Inhabitant*, and upon *every Occupier* of Lands, Houſes, *&c.* as in the Act, leaving out only the Words *Parſon* and *Vicar*; and, to make Amends for that Omiſſion, makes an Addition of perſonal Eſtates, which are not charged or mentioned in the Act; is this fair Dealing? what would you have us Laymen think of it?

But I doubt I have tired your Patience as well as my own, and therefore ſhall haſten to Uſe and Application, and ſo conclude.

I flatter my ſelf, that what I hav ſaid is not ſubject to much Contradiction, and that, whatever Effect it may have upon you and ſome of your Brethren, it will be ſufficient to ſatisfy the impartial Part of Mankind, that there is neither Reaſon, Law, nor Conſcience in your Refuſal to contribute to the Pariſh Rates and Duties.

But I ſuppoſe I muſt expect yet another Subterfuge. You and ſeveral of your Fraternity compound your Tithes, or ſome of them, with ſome of your Pariſhioners, and Endea-

(z) Wood's Inſt. 87. (*a*) ib. 96.

vours will be uſed to wheedle ſome, and awe others, by Menaces of raiſing their Compoſitions, to receive a Notion, that this is a Letting your Tithes to Farm, and that the Compounders are Occupiers of the Tithes, and ſubject to the Rates, as ſuch, according to the Act of 43 *Eliz.* Can ſuch a mean Pretence to evade a Piece of common Juſtice, be offer'd without a Bluſh? Do not moſt of ye, when ye pleaſe, and particularly your dear ſelf, take your Tithes in Kind, of ſuch of your Pariſhioners as will not riſe to your Demands, be they never ſo unreaſonable, and carry on vexatious Suits againſt them for Trifles? The Law ſays the Parſon, or Vicar, ought to be rated, and where can the Pariſh-Officers go to collect thoſe Rates? To the Parſon or Vicar, or round about the Pariſh, to pick them up in Fractions? Or would you have them cap Fractions with the Parſon? Or what other Method can be taken in making the Rates, than as the Law directs? Are not the Pariſhioners already charged as high as it is juſt in reſpect of their Rents? And ſhall they be further aſſeſſed for that which is in it ſelf a Burthen upon them, and a Benefit to the Parſon? Are the Compoſitions paid as Rents, or as Eſtimates of the full Profits claimed by the Parſon, and taken in that manner for his own Eaſe? Are not Parſons and Vicars charged as Inhabitants, which they ought always to be deemed wherever they reſide? And ought they not to contribute to the publick Service out of the Profits

fits they receive by the Pariſh, and to the Eaſe of thoſe by whom they are maintain'd? And are not thoſe who endeavour, under any Pretences, to avoid it, worthily to be taxed with Ingratitude, and ſomething worſe, if worſe can be? It is well known, the heavieſt Part of the Burthen, both of Tithes and Aſſeſſments, in Country Pariſhes, particularly in your own, lies upon the Occupiers of ſmall Farms, from 50 *l.* Rent down to 5 *l.* or under, who, as Rents are now raiſed (not to mention the preſent Fall of Markets) are forced to fare and work as hard as Day Labourers; and with their utmoſt Diligence and Frugality, find Difficulty, more than enough, to pay their Rents, Tithes and Taxes already charged; and is it conſcionable, that they ſhould, without Law or Reaſon, be further loaded, and the Parſon go ſcot-free, who ought in Law to pay his Contribution, and in Conſcience much more? Is it reaſonable, that they, who can hardly feed and cloath themſelves and Families, ſhould be further oppreſs'd with the Payment of the Parſon's Taxes? This, inſtead of feeding your Flock, is pulling their hard-earn'd Food out of the Mouths of them and their Children. You call them your People, and this would, indeed, be making them as much your Property as if they were your Oxen or Aſſes. But waving the Pleas of Conſcience, common Honeſty and Charity, which ought to be of eternal Force, eſpecially againſt a Parſon, and ſuppoſing, in Point of Law, that the

Rector of a Pariſh ſhould lett his Tithes, or a Vicar his ſmall Tithes, to any one Perſon under a certain annual Rent, could they be called Tithes impropriated or appropriate? your whole Profeſſion know otherwiſe, none of ye are ignorant, that impropriated Tithes are thoſe in the Hands of the Grantees under the Crown (few, if any, older Impropriations now remaining) and Tithes appropriate, ſuch as are appropriated to the Support of Colleges, Deaneries, or other ſpiritual Bodies. How, therefore, could the Farmer of the other Tithes be obliged to pay an Aſſeſſment which is not charged upon him by the Statute? Would not the Demand ſtill lie upon the Parſon or Vicar? And could they oblige the Occupier to indemnify them, otherwiſe than by peculiar Covenant? Satisfy yourſelf in this Queſtion from thoſe who are better read in the Laws.

But before I take my Leave, let me acquaint you what was once the Senſe of the Legiſlature upon ſuch Covenants. The Firſt Fruits and Tenths were ſettled in the Crown by an Act of Parliament 26 *H.* 8. Soon after the paſſing of which Act, whether it were, that the Parliament had an Intimation of ſome Dealings of the Biſhops and others, to throw the Burthen upon their Tenants, or that it was only from a due Apprehenſion of the incroaching oppreſſive Temper of the Clergy, and a provident Foreſight of Conſequences, it was by the ſame Parliament, in the ſame Seſſion, *for certain reaſonable and urgent*

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Conſiderations, ordained and enacted, that all and ſingular Farmers and Leſſees of any Mannors, Lands, Tenements and Hereditaments, Parſonages, Vicarages, Portions of Tithes, *or other Profits, belonging to any Arch-Biſhop, Biſhop, or* other ſpiritual Perſon or Perſons, *or ſpiritual Bodies, whereof any Firſt-Fruits or yearly Penſion of the Tenth was granted to the King, in that Seſſion of Parliament, ſhould be diſcharged and not chargeable to pay his or their proper Money in Diſcharge of the Leaſor or Leaſors, Owner or Owners, by reaſon of any* Covenant, Bargain, *Bond, Condition, Clauſe of Rentry, or other thing theretofore made or concluded; but that the Leaſors and Owners and their Succeſſors ſhould be charged and chargeable to pay the ſame, of their proper Coſts, any ſuch Covenant, Bargain, Bond,* &c. *to the contrary thereof notwithſtanding.* Thus was the Saddle laid and girted upon the right Horſe. And with this Memento I ſubſcribe my ſelf,

Yours, as you deſerve,

C. H.

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